

### REMARKS

The present amendment is in response to the Office Action dated December 18, 2002. Claims 1, 3-5, 7-12, 14-16, 18-21 are now present in this case. Claims 1 and 12 are amended. New claims 19-21 are added.

Claims 1, 3 and 7 are rejected under 35 U.S.C. § 103(a) as unpatentable over Swiss Patent No. 187,705 to Christoffel combined with either U.S. Patent No. 584,659 to Appel or U.S. Patent No. 318,016 to Onderdonk. Claims 12, 14 and 18 are rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Christoffel and Onderdonk. The applicants respectfully disagree with the assessment of the prior art and its applicability to the claimed invention.

The Office Action included a copy of the Christoffel reference, which is in German, but did not include an English language translation. Rather, the rejection is based solely on Figures 2 and 4. The applicants have provided a translation of this reference and enclose it herewith. Christoffel is directed to a technique for automatically opening a bag as it is manually torn from a nail (see page 1, paragraph 1). To accomplish this goal, the bags have a vertical crease 6 extending from the top of the bag to the bottom of the bag and through the hole 4. An individual grasps the bag in a specified location and rips it from the nail, causing the bag to open up. It is this vertical crease 6 that allows the invention of Christoffel to operate. Christoffer states that it is important that the bags be folded to retain their shape, which requires them to be hung on a nail over a three-sided block 8. (See page 2, 1<sup>st</sup> paragraph.)

Christoffel teaches directly away from the claimed invention by disclosing a bag that must be creased and folded along a vertical line in order to operate correctly. Those skilled in the art will recognize that a bag folded in such a manner is difficult or impossible to use in an automatic bagging operation, which is the intended use of the bags of the present invention. Furthermore, those skilled in the art will appreciate that the vertical crease 6 extending through the hole 4 weakens the bag in the area above the hole 4 near the top of the bag thus increasing the likelihood of premature tearing of the bag, resulting in jammed equipment. Christoffel is

directed to a manual operation to remove the bag from the nail and is not suited for automated operation as a bale bag.

In contrast to the bag of Christoffel, the present invention recited is directed to a paper bale bag for use with an automated bag-filling apparatus. The applicants note that a paper bale bag is known to those in the industry as a large heavy shipping bag that is typically loaded with pre-weighed packages of product, such as produce. For example, a typical bale bag may contain five 10 pound sacks of potatoes for a total of 50 pounds. The bale bag is typically sewn shut after the loading process. Thus, the paper bale bag is not the equivalent of a conventional grocery bag. The size and weight of a paper bale bag is significantly greater than a conventional grocery bag and, prior to the introduction of the present invention, was ill suited for automated bagging processes. The bags disclosed in Christoffel, Appel and Onderdonk are consumer oriented bags that are not suitable for automated processing.

Thus, the bags in the cited references are not designed for operation as bale bags in an automated bag-filling apparatus. Specifically, claim 1 is directed to a "paper bale bag for use with an automated bag-filling apparatus" and recites *inter alia* an elongated flat back panel" as well as "an aperture in the back panel proximate the top portion with the back panel having a continuous perimeter surrounding the aperture."

None of the references cited in the application are designed for use as paper bale bags and have the structures recited in claim 1. Christoffel introduces a vertical crease that weakens the structure above the hole and does not provide a flat bag for use in an automated process. Appel is directed to a technique for creating a string hole in a paper bag and does not have a flat perimeter surrounding the aperture nor a cutaway portion in the side of the bag opposite the aperture, as recited in claim 1. Onderdonk does not even have an aperture at all. Appel and Onderdonk are cited only for teaching that a bag has side portions. These references, taken alone or in combination do not fairly teach or suggest the claimed invention. Accordingly, claim 1 is clearly allowable over the cited references. Claims 3-11 and 19 are also allowable in view of the fact that they depend from claim 1, and further in view of the recitation in each of those claims.

Claim 12 is a method claim for manufacturing a paper bale bag for use with an automated bag-filling apparatus and comprises *inter alia* “folding a piece of paper having elongated first and second free end portions to form an elongated front panel and an elongated flat back panel” as well as “placing an aperture in the back panel at a second end opposite the first end, the aperture being placed in a portion of the back panel having a continuous perimeter surrounding the aperture.” As discussed above with respect to claim 1, Christoffel teaches directly away from the method recited in claim 12 by disclosing a bag requiring a vertical crease from the top of the bag to the bottom of the bag directly through the hole 4. As noted above, this does not allow the bag to be readily used in an automated bag-filling apparatus and the crease may further weaken the bag causing premature removal from the nail and the resultant jamming of a bag loading apparatus. Accordingly, claim 12 is also allowable over the cited references. Claims 14-16 and 18 are also allowable in view of the fact that they depend from claim 12, and further in view of the recitation in each of those claims.

New claim 20 is directed to a paper bale bag for use with an automated bag-filling apparatus having a protruding member positioned to retain the paper bale bag in a substantially vertical orientation and recites *inter alia* “first and second opposing panels having an unfolded upper portion” as well as “an aperture in the unfolded upper portion of the first opposing panel proximate to the top portion with the first opposing panel having a continuous perimeter surrounding the aperture, the aperture sized to slideably fit onto the protruding member.” As discussed above, the cited references do not teach or suggest such a bag. Christoffel teaches away from the claimed invention by disclosing a bag with a vertical fold from top to bottom through the hole 4. Accordingly, claim 20 is clearly allowable over the cited references. Claim 21 is also allowable in view of the fact that it depends from claim 20, and further in view of the recitation within the claim.

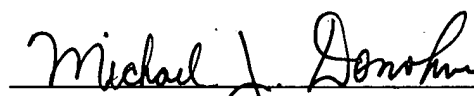
Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned “**Version With Markings to Show Changes Made.**”

In view of the above amendments and remarks, reconsideration of the subject application and its allowance are kindly requested. If questions remain regarding the present application, the Examiner is invited to contact the undersigned at (206) 628-7640.

Respectfully submitted,

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A handwritten signature in cursive script, reading "Michael J. Donohue", is written over a horizontal line.

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims:

Claims 1 and 12 have been amended as follows:

1. (Amended) A paper bale bag for use with an automated bag-filling apparatus, comprising:

an elongated front panel~~and back panels~~;

an elongated flat back panel;

elongated left and right side panels adjoining the front and back panels;

a closed bottom panel joining the front and back panels with the left and right side panels;

an open top portion;

an aperture in the back panel proximate the top portion with the back panel having a continuous perimeter surrounding the aperture; and

a cut-away portion in the front panel proximate the top portion to expose the aperture wherein the aperture is in the back panel only.

12. (Amended) A method of manufacturing a paper bale bag for use with an automated bag-filling apparatus, comprising:

folding a piece of paper having elongated first and second free end portions to form an elongated front panel and an elongated flat back panel ~~panels~~ and elongated left and right side panels adjoining the front and back panels;

forming left, right, front and back flaps by cutting a portion of the folded paper at a first end of the left, right, front and back panels at the folds between the left, right, front and back panels;

coupling the elongated free end portions to each other;

folding the left and right side flaps toward each other;

folding front and back flaps toward each other and over the left and right side flaps to form a bottom panel of the bag;

sealing the left, right, front and back flaps;

placing an aperture in the back panel at a second end opposite the first end, the aperture being placed in a portion of the back panel having a continuous perimeter surrounding the aperture; and

removing a portion in the front panel proximate the top portion to expose the aperture wherein the aperture is in the back panel only.

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